IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1499 (SS) of 2005

Anand Prakash Agarwal,
S/o Sri Sunder Lal Agarwal,
Through his next friend Smt. Geeta Agarwal,
W/o Sri Anand Prakash Agarwal,
R/o Pankaj Sharma Saraswati Shishu
Mandir, Ward No. 3,
Tanakpur,
District – Champawat. **.....Petitioner.**

Versus

1. Union of India through Secretary, Ministry of Defence, New Delhi.
2. Commander, Work Engineers MES Station Road, Bareilly Cantt.
3. Garrison Engineer, Military Engineering Services, Station Road Bareilly Cantt., Bareilly.
4. Assistant Garrison Engineer, BN MES, Banbasa, District - Champawat.

.....Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri D.S. Mehta, holding brief of Sri M.C. Pant, learned counsel for the petitioner and Sri Pradeep Joshi, learned Standing Counsel for Union of India of behalf of respondents.

By means of this writ petition, the petitioner, who took voluntary retirement on 30.12.2004, has prayed for two reliefs: First, to issue a writ in the nature of Mandamus commanding the respondents to pay to the petitioner his pension, gratuity and other retirement benefits along with 20% interest from due date.

In para 10 of the counter affidavit respondent have submitted that all the pensionary / post retirel benefits except

leave encashment have been paid to the petitioner and leave encashment of the petitioner has been forwarded to the Headquarters CWE Bareilly vide GE (East) Bareilly Letter No. 1042 / 110 / EID dated 10.01.2006 and the same will be paid on receipt from GE (East) Bareilly.

The second prayer of the petitioner is that the case of petitioner's son for appointment on the compassionate ground may be considered.

The submission of the respondents is that petitioner has taken voluntary retirement and as such, his son is not entitled for compassionate appointment.

In para 7 of the counter affidavit, respondents have submitted that prayer for compassionate appointment of the petitioner's son cannot be granted in view of the latest policy issued on the subject DG (Pers) EIC (4) E-in-C's Branch Army Headquarter letter no. B/22560/Policy/Vol-09/EIC (4) dated 20.09.2005 and Headquarters CE, Central Command, Lucknow Letter no. 910126/1/Policy/THU/EIC (I) dated 28.09.2005.

In view of the aforesaid averments made in the counter affidavit, respondents are directed to make payment of leave encashment to the petitioner, if the same has not already been paid, within a period of two months from the date of production of certified copy of this order.

With the direction, writ petition as well as stay application no. 8487 of 2005 is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

March 14, 2007
Sksharma